

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**


	)	<b>Chapter 7</b>
<b>In re:</b>	)	
	)	
<b>BARRY PORTNOY,</b>	)	<b>Case No. 14-16081-mdc</b>
	)	
<b>Debtor.</b>	)	
	)	

**ORDER**

AND NOW, this 29<sup>th</sup> day of March, 2018, upon consideration of the Motion of Robert H. Holber, Chapter 7 Trustee, for Leave to File a Reply in support of Trustee's Motion to compel Debtor to file his tax returns pursuant to 11 U.S.C. § 521 ("Motion"), it hereby

ORDERED that said Motion is GRANTED; and it is further

ORDERED, the Clerk of Court shall file the reply attached as Exhibit A to the Motion at its earliest convenience.

  
MAGDELINE D. COLEMAN  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**In re:**

**BARRY PORTNOY,**

**Debtor.**

**Chapter 7**

**Case No. 14-16081-mdc**

**REPLY OF ROBERT H. HOLBER AS CHAPTER 7 TRUSTEE  
TO DEBTOR'S RESPONSE TO MOTION TO COMPEL TURNOVER**

Robert H. Holber, Esquire, the duly appointed and qualified trustee ("Trustee") in this case, through his undersigned counsel, hereby replies to the response of Debtor to the motion to compel Debtor to file his tax returns pursuant to 11 U.S.C. § 521 (the "Motion"). In further support of the Motion, the Trustee states as follows:

1. The statute is clear that the court shall order the filing of certain tax returns by the Debtor upon the request of the case trustee; Mr. Holber is clearly the case trustee. 11 U.S.C. § 521.

2. The debtor has opposed the Motion, contending that the Trustee ought not be allowed access to the returns because of procedures in place under the *Guide to Judiciary Policy*, vol. 4, chapter 8 § 830 (Guidance for Protection of Tax Information), available at <http://www.uscourts.gov/rules-policies/judiciary-policies/bankruptcy-case-policies>.

3. The debtor's objection to the Trustee's obtaining access to the returns is premature.

4. The Trustee and any other party in interest may be entitled to obtain access to returns that the Debtor files pursuant to the order sought by the Trustee once the Trustee and any other party in interest complies with the procedures set forth in § 830.30(b), quoted in the debtor's response.

5. In the meantime, the statute clearly states that the court must grant the Trustee's request and direct the Debtor to file with the court:

(1) at the same time filed with the taxing authority a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the debtor's bankruptcy case is pending under such chapter 7, 11 or 13 of the Bankruptcy Code;

(2) at the same time filed with the taxing authority each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case; and

(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2).

WHEREFORE, the Trustee requests an Order, in the form attached to the Motion, compelling the Debtor to file certain tax returns and grant such further relief this Court deems just and proper under the circumstances.

Dated: 3/9/2018

GELLERT SCALI BUSENKELL & BROWN, LLC

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Counsel to the Chapter 7 Trustee

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**Chapter 7**

**Case No. 14-16081-mdc**

**CERTIFICATION OF SERVICE**

I hereby certify that on the date set forth below, the foregoing Reply was served on all parties of record via this Court's CM/ECF notification system.

Dated: 3/9/2018

GELLERT SCALI BUSENKELL & BROWN, LLC

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